



Billing Code: 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2017–N169; FXES111402C0000–189–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Arizona Electric Power Cooperative; Survival Enhancement Permit Application; Sonoran Desert Tortoise Candidate Conservation Agreement with Assurances, Arizona

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of Availability request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS), announce receiving Arizona Electric Power Cooperative's (AEPCO; applicant) survival enhancement permit application, under the Endangered Species Act of 1973, as amended (Act). The requested permit would authorize Sonoran desert tortoise incidental take resulting from conservation activities and ongoing lawful activities, should the species be listed as endangered or threatened in the future. The permit application includes a proposed candidate conservation agreement with assurances (CCAA) between AEPCO and the FWS for a 25-year period. In accordance with National

Environmental Policy Act (NEPA) requirements, we have determined that the proposed permit action qualifies under a categorical exclusion. We are accepting comments on the permit application, proposed CCAA, and draft NEPA screening form supporting using a categorical exclusion.

DATES: *Submission of Comments:* We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: *Obtaining Documents:* You may obtain copies of the application, the proposed CCAA, the draft NEPA compliance documentation, or other related documents by going to the FWS web site at http://www.fws.gov/southwest/es/arizona/Sonoran_tort.htm. Alternatively, you may obtain CD-ROMs with electronic copies of these documents by writing to Field Supervisor, U.S. Fish and Wildlife Service, 9828 North 31st Avenue, Phoenix, AZ 85051–2517; calling (602) 242–0210; or faxing (602) 242–2513. A limited number of printed copies of the documents are also available, by request, from the Field Supervisor. Copies of the documents are also available for public inspection and review at the following locations, by appointment only:

- U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., Room 6093, Albuquerque, NM 87102.
- U.S. Fish and Wildlife Service, 9828 North 31st Avenue, Phoenix, AZ 85051.

Submitting Comments:

To submit written comments, please use one of the following methods, and note that your comment is in reference to the proposed Sonoran Desert Tortoise AEPCO CCAA, Arizona:

- U.S. Mail: Field Supervisor, U.S. Fish and Wildlife Service, 9828 North 31st Avenue, Phoenix, AZ 85051–2517 (Attn: Brenda Smith).
- Fax: (602) 242–2513.
- Email: FW2_HCP_Permits@fws.gov (subject line: AEPCO CCAA)

We request that you submit comments by only the methods described above. Generally, we will post any personal information you provide us (see the **Public Availability of Comments** section for more information).

FOR FURTHER INFORMATION CONTACT: Steven L. Spangle, Field Supervisor, U.S. Fish and Wildlife Service, 9828 North 31st Avenue, Phoenix, AZ 85051; (602) 242–0210 (telephone).

SUPPLEMENTARY INFORMATION: Arizona Electric Power Cooperative (AEPCO) (AEPCO; applicant) applied to the U.S. Fish and Wildlife Service (FWS) for a survival enhancement permit (permit; TE 00948C–0) under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; Act), section 10(a)(1)(A). The requested permit, which would be in effect for up to 25 years, if granted, would authorize Sonoran desert tortoise (*Gopherus morafkai*) incidental take.

The candidate conservation agreement with assurances (CCAA) and associated permit would include portions of the following Arizona counties where the AEPCO transmission system

occurs: Cochise, La Paz, Mohave, Pima, Pinal, and Yavapai. The CCAA and associated permit would cover AEPCO's Sonoran desert tortoise conservation activities in association with their ongoing operation, repair, and maintenance activities on transmission structures, transmission lines, substations, and unpaved access roads, both within and outside AEPCO rights-of-way and easements (covered activities; AEPCO CCAA Figures 1–2). These activities include transmission line access road use, maintenance, repair, and reconstruction; manual, mechanical, and herbicide treatment to control vegetation hazards; and maintaining transmission line structures, conductors, and associated equipment. The survival enhancement permit would provide AEPCO assurances that the conservation to which they have committed is all we will require of them if the species is listed, and will provide incidental take coverage for their conservation activities and ongoing operations and maintenance activities, as described above.

The FWS also announces the availability of a draft determination that the proposed permit action qualifies as a categorical exclusion pursuant to NEPA. Therefore, we propose that this project's survival enhancement permit is "low effect" and qualifies for categorical exclusion under the NEPA, as 43 CFR 46.205 and 43 CFR 46.210 provide. We are making the permit application package, including the draft NEPA screening form, and draft AEPCO CCAA, available for public review and comment.

Background

Survival enhancement of permits issued for CCAAs encourage non-Federal landowners, including non-Federal operators holding easements on private lands, to implement conservation measures for species that are, or are likely to become, candidates for Federal listing as

endangered or threatened under the Act, by assuring landowners/operators they will not be subjected to increased property use restrictions if the covered species becomes listed in the future. Application requirements and survival enhancement of permit issuance criteria for CCAAs are in the Code of Federal Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d). The joint policy on CCAAs was published in the **Federal Register** with the Department of Commerce's National Oceanic and Atmospheric Administration, National Marine Fisheries Service on December 27, 2016 (80 FR 95164; December 27, 2016).

Proposed Action

The proposed action is the FWS issuing AEPCO a permit for covered activities in the permit area for up to 25 years, pursuant to the Act, section 10(a)(1)(A). The Permit would cover Sonoran desert tortoise "take" associated with covered activities occurring within the permit area.

The proposed AEPCO CCAA commits AEPCO to implement conservation measures to reduce threats and contribute to furthering Sonoran desert tortoise conservation on lands AEPCO uses while implementing covered activities within the tortoise's Arizona range.

To meet section 10(a)(1)(A) permit requirements, the applicant developed and proposes to implement the AEPCO CCAA, which describes the conservation measures AEPCO has agreed to undertake to reduce tortoise threats, ensure that incidental take will not appreciably reduce the likelihood the species can survive and recover in the wild, and benefit Sonoran desert tortoises and their habitats.

Expected benefits include, but may not be limited to: developing and delivering personnel and contractors a training and awareness program, along with annual refreshers to

avoid and minimize Sonoran desert tortoise take; limiting the amount of new disturbance within tortoise habitat; providing early notification of new buffelgrass infestations to afford opportunity for buffelgrass management to improve Sonoran desert tortoise habitat, and; limiting taking habitat, eggs, and female Sonoran desert tortoises. Additionally, through the CCAA's reporting requirements, the FWS will receive additional tortoise distribution data to add to the overall Sonoran desert tortoise knowledge base, and use it to further species conservation. Since the Sonoran desert tortoise is not federally listed, there is no regulatory requirement for AEPCO to implement a conservation program. Therefore, absent the CCAA, it is unlikely these benefits to the tortoise would be realized.

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of the Act, NEPA, and implementing regulations. If we determine that all requirements are met, we will approve the proposed CCAA and, should the species become listed as threatened or endangered under the Act in the future, the AEPCO permit under the Act, section 10(a)(1)(A), will become effective and provide Sonoran desert tortoise incidental take coverage through the remainder of the CCAA's 25-year duration. We will not make our final decision until after the comment period ends, and we will fully consider all comments we receive during the public comment period.

Public Availability of Comments

All comments we receive become part of the public record associated with this action. Requests for copies of comments will be handled in accordance with the Freedom of Information Act, NEPA, and Service and Department of the Interior policies and procedures. Before

including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under the Act, section 10(c) and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Joy E. Nicholopoulos,
Acting Regional Director, Southwest Region,
Albuquerque, New Mexico.

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